DEPARTMENT OF STATE A/CDC/MR
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(1) R.

April 23, 1981

Dear Mr. Commissioner:

I write with regard to the implementation of asylum procedures under the Refugee Act of 1980. While the Depar ent of State will comment formally on the new asylum regulation once you have completed the drafting, we now wish to bring a related issue to your attention--specifically, the need to consider all cases individually, regardless of previous communications on the presumption of persecution in certain countries.

Granting asylum on a blanket or group basis is inconsistent with Section 208 of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. Section 208 refers solely to individuals and makes no mention of specific countries or regions of the world. We urge renewed efforts to ensure that all personnel involved in the asylum review process understand that the responsibility for establishing a well-founded fear of persecution rests with each applicant. This point should also be stressed in public and international fora. In this regard, we note that the consideration of asylum applications on a case-by-case basis is fully consistent with United States obligations under the U.N. Protocol Relating to the Status of Refugees.

Some asylum applicants and their attorneys, particularly those involved in the Haitian litigation, have argued that United States policy regarding Haitians and other Western Hemisphere nationals is biased and discriminatory and unlawful in light of the purportedly more favorable treatment of nationals of certain countries in the Eastern Hemisphere. This perception of discrimination probably has its roots in the now-repealed seventh preference ("conditional entry") which author-

The Honorable
David Crosland,
Acting Commissioner,
Immigration and Naturalization Service,
425 "I" Street, N. W.,
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ized the admission of refugees only if they were fleeing Communist or Middle Eastern countries. While asylum could be and was granted to aliens from other countries who were already in the United States, the previous statutory authority to admit refugees from Communism and the Middle East led many people to believe that nationals of Communist and Middle Eastern countries were given special and favorable treatment if they applied for asylum in the United States.

In response to the concerns raised above and in order to eliminate even the appearance of inequitable treatment, the Department of State hereby rescinds the October 26, 1977 letter from Mr. James Carlin to Mr. Mario Noto regarding asylum requests by Polish nationals which the Service subsequently expanded to include Romanians, Hungarians and Czechs.

In addition, the Department wishes to note that, in exceptional cases, where political and security conditions in a particular country are too unsettled to permit an accurate evaluation of the situation, voluntary departure status for nationals of that country who apply for asylum but who have failed to establish a well-founded fear of persecution may be appropriate. In such situations the Department will so recommend to INS. Most often, these recommendations for voluntary departure will be on a case-by-case basis.

More explicit guidance in regard to the foregoing paragraph may be forthcoming following an interagency review of immigration and refugee policy which is currently in progress and whose results are due to the President next month. At present, we believe that the above measures will properly focus attention on each individual asylum application and will eliminate some of the misunderstanding as to how the Department of State and the Immigration Service evaluate claims of persecution. We appreciate your attention and cooperation in this matter.

Sincerely,

Stephen E. Palmer

Stephen E. Palmer, Jr.
Acting Assistant Secretary for
Human Rights and
Humanitarian Affairs